

COTTONWOOD HEIGHTS

ORDINANCE NO. 119

AN ORDINANCE AMENDING CHAPTER 19.90 (AMENDMENTS AND REZONING) OF THE COTTONWOOD HEIGHTS CODE

WHEREAS, the “Municipal Land Use, Development, and Management Act,” UTAH CODE ANN. §10-9a-101 *et seq.*, as amended (the “*Act*”), provides that each municipality may enact a land use ordinance and a zoning map establishing regulations for land use and development; and

WHEREAS, pursuant to the Act, the municipality’s planning commission shall prepare and recommend to the municipality’s legislative body, following a public hearing, a proposed land use ordinance and a zoning map, or amendments thereto, that represents the planning commission’s recommendations for zoning the area within the municipality; and

WHEREAS, the Act also provides certain procedures for the municipality’s legislative body to adopt or amend the land use ordinance and zoning map for the City; and

WHEREAS, on 14 July 2005, the city council (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) enacted its Ordinance No. 25 adopting a land use ordinance for the City and codifying such ordinance as Title 19 of the City’s code of ordinances (the “*Code*”); and

WHEREAS, Title 19 of the Code includes chapter 19.90 (“Amendments and Rezoning”) (“*Chapter 19.90*”), which describes the City’s requirements for, *inter alia*, amending the number, shape, boundaries or area of any zone, or any regulation within any zone, or any other provisions of the City’s land use ordinance, general plan or zoning map; and

WHEREAS, thereafter, the City’s planning commission (the “*Planning Commission*”) formulated certain proposed changes to Chapter 19.90 for the purpose of conforming the requirements thereunder to the requirements of the Municipal Land Use, Development, and Management Act, UTAH CODE ANN. §10-9a-101 *et seq.*, as amended; and

WHEREAS, on 21 May 2008, a public hearing was held before the Planning Commission, where citizens were given the opportunity to provide written or oral comment concerning the proposed amendments to Chapter 19.90; and

WHEREAS, such public hearing before the Planning Commission was preceded by all required legal notices; and

WHEREAS, following the public hearing, the Planning Commission recommended Chapter 19.90, as amended, to the Council for adoption; and

WHEREAS, on 8 July 2008, a second public hearing was held before the City Council, preceded by all required legal notices, where citizens were given the opportunity to provide written or oral comment concerning the proposed amendments to Chapter 19.90; and

WHEREAS, on 22 July 2008, the Council met in regular meeting to consider, among other things, amending Code Chapter 19.90 as proposed; and

WHEREAS, after careful consideration of the recommendations of the Planning Commission, comments at the public hearing, and recommendations of City staff and the City attorney, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to amend Code Chapter 19.90;

NOW, THEREFORE, BE IT ORDAINED by the city council of the city of Cottonwood Heights as follows:

Section 1. **Adoption of Amended Chapter 19.90.** The Council hereby amends Chapter 19.90 of the Code as shown on the attached exhibit, which shows deletions to current Chapter 19.90 ~~struck through~~, and additions to current Chapter 19.90 underlined.

Section 2. **Action of Officers.** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this ordinance (this "*Ordinance*"), whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 3. **Severability.** It is hereby declared that all parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 4. **Repealer.** All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 5. **Effective Date.** This Ordinance, assigned no. 119, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's Recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 22nd day of July 2008.

COTTONWOOD HEIGHTS CITY COUNCIL



By Kelvyn H. Cullimore, Jr.
Kelvyn H. Cullimore, Jr., Mayor

Linda W. Dunlavy
Linda W. Dunlavy, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.
Gordon M. Thomas
J. Scott Bracken
Don J. Antczak
Bruce T. Jones

Yea ☒ Nay ☐
Yea ☒ Nay ☐
Yea ☒ Nay ☐
Yea ☒ Nay ☐
Yea ☒ Nay ☐

DEPOSITED in the Recorder's office this 22nd day of July 2008.

POSTED this ___ day of July 2008.

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Chapter 19.90
AMENDMENTS AND REZONING

Sections:

19.90.010 Amendment procedure.

19.90.020 Hearing—Notice.

19.90.030 Determination of city council.

19.90.040 Appeal procedure.

19.90.050 Disapproval of rezone application.

19.90.070 General plan amendment procedure.

19.90.080 Determination of city council.

19.90.090 Periodic consideration of general plan application.

19.90.100 Disapproval of general plan application.

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19.90.010 Amendment procedure.

A. The city council may, from time to time, amend the number, shape, boundaries or area of any zone or any regulation within any zone or any other provisions of the zoning ordinance. The city council may not make any amendment authorized by this section unless the amendment was proposed by the planning commission or was first submitted to the planning commission for its recommendation. To become effective, zoning amendment applications which have received the positive recommendation of the planning commission must first receive the favorable vote of not less than a majority of the entire membership of the city council.

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B. Zoning amendment applications which receive a recommendation of denial by the planning commission shall thereafter be considered by the city council as provided in section 19.90.030.

19.90.020 Hearing—Notice.

Before finally adopting any such amendment, the city council shall ensure that the planning commission has held a public hearing thereon preceded by all legally-required public notice.

19.90.030 Determination of city council.

The city council, after review of the recommendation of the planning commission, may affirm, reverse, alter or remand for further review and consideration any recommendation made by the planning commission.

Deleted: shall have the right to appeal to the city council a decision or disapproval of a zoning amendment application rendered by the planning commission by filing an appeal, in writing, stating the reasons for the appeal within ten days following the date upon which the decision is made by the planning commission. After receiving the appeal, the city council may reaffirm the planning commission decision disapproving the application, remand the matter to the planning commission for further consideration, or may set a date for a public hearing pursuant to section 19.90.020.

19.90.040 Appeal procedure.

Any person adversely affected by a decision of the city council amending (a) the number, shape, boundaries or area of any zoning district; (b) any regulation of or within the zoning district; or (c) any other provision of a land use ordinance, may file a petition for review of such decision in the district court within 30 days after the city council's decision is final.

19.90.050 Disapproval of rezone application.

Disapproval by the city council of an application to amend the zoning map shall

preclude the filing of another application to amend the zoning map to reclassify the same parcel of property, or any portion thereof, to the same zone classification, or, if the application is for a commercial classification, to the same or any other commercial classification, within one year after the date of the final disapproval of the application unless the planning commission finds that there has been a substantial change in the circumstances or sufficient new evidence since the disapproval of the application to merit consideration of a second application within the one-year time period.

Deleted: No appeal may be taken from a planning commission decision rendered pursuant to this subsection.

19.90.070 General plan amendment—Procedure.

The city council may amend the general plan. A proposed amendment to the general plan shall not be made or become effective unless it is first presented to the planning commission and, before making its recommendation concerning the proposed amendment, the planning commission holds a public hearing on the proposed amendment preceded by all required public notice. The planning commission thereafter shall forward the proposed amendment and its recommendation concerning it to the city council.

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19.90.072 . **Hearing—Notice.** ¶
The city council shall hold a public hearing on the proposed amendment upon reasonable notice following receipt of the planning commission's recommendations under section 19.90.070. The public hearing shall comply with state statute for preparing and adopting a general plan. Reasonable notice means compliance with the applicable notice requirement under state statute. ¶

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19.90.080 Determination of city council.

After the planning commission review, public hearing and recommendation as provided in section 19.90.070, the city council may adopt the general plan amendment as proposed; modify the proposed amendment and adopt it or reject it as modified; or reject the proposed amendment.

19.90.090 Periodic consideration of general plan applications.

The planning commission may establish policies and procedures whereunder pending applications for amendments to the general plan not initiated by the city will be considered by the planning commission only periodically, provided that consideration by the planning commission of such pending applications occurs no more than three times annually at intervals of not less than four months. Any such policies and procedures shall be inapplicable to applications for amendments to the general plan initiated by the city, and the planning commission promptly shall consider any city-initiated proposal to amend the general plan.

19.90.100 Disapproval of general plan application.

Disapproval of an application to amend the city's general plan not initiated by the city shall preclude the filing of another application to amend the general plan text in the same or similar manner or to amend the general plan map for any parcel of property or portion thereof to the same land use designation within one year of the date of the final disapproval of the application unless the city council finds that there has been a substantial change in the circumstances or other significant reasons since the disapproval of the application to merit consideration of a second application within the one-year time period.

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